

STATE OF INDIANA )  
 )ss:  
COUNTY OF MARION )

IN THE MARION JUVENILE COURT  
CAUSE NO. 49D09-0401-JC-150-157

IN RE: THE H. CHILDREN, by their next friend and  
Guardian ad Litem, CHILD ADVOCATES, INC., on her  
own behalf and on behalf of a class of those similarly  
situated,

Counter-Plaintiffs and Third Party  
Plaintiffs,

v.

DAN CARMIN, Acting Director of Marion County  
Division of Family and Children,

Counter-defendant,

CHERYL SULLIVAN, in her official capacity as  
the Secretary of the Indiana Family and Social Services  
Administration, and

STEPHEN E. DeMOUGEN, Director, Division of Family  
and Children, Indiana Family and Social Services  
Administration,

Third-party defendants.

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### PRELIMINARY INJUNCTION AND ORDER OF CLASS CERTIFICATION

Come now the parties, having filed their Stipulations, and the Court having read them, and  
being duly advised, finds that good cause exists to enter the following orders, and,

IT IS THEREFORE ORDERED that this case is certified as a class action with the class  
defined as:

all children who are in placements because they have been  
adjudicated as Children in Need of Services or because Children in  
Need of Services actions are pending against them, or who may in the  
future be in placements for these reasons, and all children who have  
been or may be removed from their homes pursuant to a court order,

as authorized under Ind. Code § 31-34, before a Child in Need of Services action has been commenced.

IT IS FURTHER ORDERED that the following preliminary injunction shall issue:

The Family and Social Services Administration, the Division of Family and Children and all of its county offices and personnel are enjoined from any and all requirements of completing criminal history checks for criminal history or delinquent act adjudication, as required by HEA 1194. However, the Family and Social Services Administration, the Division of Family and Children and all of its county offices and personnel may continue to conduct background checks of potential placements for children pursuant to laws, policies or practices in effect on June 30, 2004. Section 1 of HEA 1194 which defines the Division of Family and Children as a "criminal justice agency" is not enjoined thereby permitting it to access all databases maintained by the Indiana State Police, in accordance with any agreement between the Division of Family and Children and the Indiana State Police.

IT IS FURTHER ORDERED that this preliminary injunction shall remain in effect until the earlier of any of the following occurrences:

(a) The effective date of any legislation enacted by the Indiana General Assembly, after the date of the stipulation, that amends any provisions of Ind. Code § 12 or Ind. Code §31 relating to the placement of children removed from their home.

(b) July 1, 2005.

(c) further order of the Court.

IT IS FURTHER ORDERED that this injunction will issue without bond.

JUN 30 2004

DATE

  
JUDGE, MARION SUPERIOR COURT

Cc:

Kenneth J. Falk  
Indiana Civil Liberties Union  
1031 E. Washington St.  
Indianapolis, IN 46202

Robert Wente  
Deputy Attorney General  
IGCS-5<sup>th</sup> Floor  
302 W. Washington St.  
Indianapolis, IN 46204

Loretta Oleksy  
4911 E. 56<sup>th</sup> St.  
Indianapolis, IN 46220

Legal Division  
Marion County Office of Family and Children  
4720 N. Kingsway Dr.  
Suite 350  
Indianapolis, IN 46205

Parents